

Opening Statement of

Representative Elijah E. Cummings, D-Maryland

Hearing on “The Countdown to Completion: Implementing the
New Department of Homeland Security Personnel System.”

Subcommittee on the Federal Workforce and Agency Organization
U.S. House of Representatives
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Mr. Chairman, thank you for calling this important hearing on the newly issued personnel regulations for the Department of Homeland Security (DHS).

Following the tragic events of 9/11, the DHS was created, which brought together 22 agencies for the purpose of protecting our country. The Homeland Security Act gave the Secretary of the DHS and the Director of the Office of Personnel Management the authority to construct a new personnel system for the DHS.

In 2002, Congress agreed it was a top priority to make a modern human resources management system at the DHS capable of supporting its mission.

However, many of my colleagues and I had some serious reservations that the authority granted to the DHS would needlessly undermine our nation’s long-standing commitments to employee protections, management accountability, and collective bargaining rights.

Unfortunately, these newly issued regulations validate that my fears were well-founded.

To begin, the Administration has consistently justified its proposed sweeping changes in the DHS human resources management system as necessary to ensure national security.

While national security must remain our top priority, I can think of no instances in which collective bargaining rights or employee protections in the civil service were a specific obstacle to protecting our nation.

These regulations substantially restrict what issues are covered by collective bargaining. As described in the new regulations, the DHS is no longer mandated to bargain over “the number, types, grades, or occupational clusters and bands of employees or positions assigned to any organizational subdivision work project or tour of duty...”

I believe that it is important that we maintain the integrity of our top priority by ensuring that the efforts we take in the name of national security genuinely impact the security of our nation.

As such, I look forward to the testimony of T.J. Bonner of the American Federation of Government Employees that describes numerous instances where collective bargaining has protected employees in the civil service and strengthened our homeland security.

It is troubling that the DHS and OPM rejected the proposal by unions for a “post-implementation bargaining” policy in the new DHS personnel system, which could have provided a balanced approach that respected the needs of all interested parties and provided the DHS with needed flexibilities to respond to national security emergencies.

More troubling is the replacement of the General Schedule with a performance-based pay system. Such a system could provide a means for politicalization and, or cronyism within the DHS without the necessary safeguards and clear standards to measure employee performance.

These regulations also fail to establish an independent entity to resolve labor-management disputes.

Under the new regulations DHS employees must take their grievances to an internal board appointed by the DHS Secretary called the Homeland Security Labor Relations Board (HSLRB), replacing the independent Federal Labor Relations Authority as arbiter of disputes.

With the HSLRB being completely comprised of appointments by the top authority representing management at the DHS, this poses a major obstacle to ensuring impartiality in the resolution of labor-management disputes.

This is analogous to having the umpires of the World Series being chosen by an owner of a team involved in the game—even if one would make the argument that such a selection process is reasonable, it certainly does not give the perception of fairness to the American people and to those playing the game.

Mr. Chairman, the human resources management system at the DHS is no game. The regulations and laws, which govern that system directly, impact the quality of life of some of our government's most important civil servants and as a result, impact the DHS's ability to fulfill its vital mission.

I do not believe that these regulations support an efficient and inclusive relationship between employers and employees at the

DHS. Specifically, the type of relationship needed to keep morale high, support retention, and attract skilled and capable prospective employees to serve at the DHS.

We best honor our public servants by having a human capital system that embraces time honored and time tested traditions of collective bargaining, due process, and employee protections instead of undermining them.

Mr. Chairman, I yield back the balance of my time.